

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

DAVID DELGADO,

Plaintiff,

vs.

CORECIVIC, INC.,

Defendant.

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Civil Action No. 5:19-cv-01393

DEFENDANTS' NOTICE OF REMOVAL

Under 28 U.S.C. §§ 1332, 1441, and 1446, Defendant CoreCivic, Inc. ("CoreCivic" or "Defendant") files this Notice of Removal, giving notice that it is removing this civil action to the United States District Court for the Western District of Texas, San Antonio Division, based on diversity jurisdiction. In support of this Notice of Removal, Defendants show:

**I.
BACKGROUND**

1. On October 28, 2019, Plaintiff David Delgado filed this civil action, Cause No. 19-10-00338CVF, in the 81st Judicial District Court of Frio County, Texas.

2. On November 7, 2019, CoreCivic was served with Plaintiff's Original Petition. *See* Exhibit 1.¹ A copy of the docket sheet in the state court case is attached hereto. *See* Exhibit 2. True and correct copies of the request for process, citation and affidavit of service are attached as Exhibit

3.

¹ In accordance with 28 U.S.C. § 1446(a), attached hereto as Exhibits 1-4 are true and correct copies of all process, pleadings, and orders served upon Plaintiff and Defendant in the state court proceeding, as well as a copy of the state court docket sheet.

3. In this lawsuit, Plaintiff brings a single claim of discrimination under the Texas Commission on Human Rights Act. *See* Exhibit 1. Plaintiff seeks monetary relief of over \$200,000.00, but less than \$1,000,000.00, including economic damages, back pay, front pay, and emotional distress damages. *See Id.* Plaintiff also seeks exemplary damages, attorney's fees, expert fees, and court costs. *See Id.*

II.

JURISDICTIONAL ALLEGATIONS

4. This Court has subject matter jurisdiction in this case based upon diversity jurisdiction. 28 U.S.C. § 1332. Diversity jurisdiction exists in a civil matter when the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, and the dispute is between citizens of different states. Both requirements are met in this case.

A. The Amount in Controversy Exceeds \$75,000.00.

5. The amount in controversy exceeds \$75,000.00, exclusive of interest and costs. Plaintiff states in his Petition that he seeks damages in excess of \$200,000.00, and other non-wage damages such as equitable relief. *See* Exhibit 1. Specifically, Plaintiff seeks past and future lost wages, and other non-wage damages that amount to more than \$75,000.00, exclusive of interests and costs. *See* Exhibit 1. The amount in controversy, therefore, exceeds \$75,000.00, and the first removal requirement under 28 U.S.C. § 1332(a) is satisfied.

B. Complete Diversity of Citizenship Exists.

6. Defendant satisfies the second requirement for removal under 42 U.S.C. § 1332(a) because complete diversity of citizenship exists between Plaintiff and Defendant. At the time of filing of the Petition and at the time of removal, Plaintiff was a citizen of the State of Texas. *See* Exhibit 1. In contrast, Defendant is incorporated in the State of Maryland and has its principal

place of business in Brentwood, Tennessee under the “nerve center” test. *See* Exhibit 4 Declaration of Jason Medlin; *Hertz Corp. v. Friend*, 559 U.S. 77 (2010). Thus, because Plaintiff is a citizen of Texas and Defendant is a citizen of Tennessee, the parties’ citizenship is diverse within the meaning of 28 U.S.C. § 1332.

III. **PROCEDURAL ALLEGATIONS**

7. The Western District of Texas, San Antonio Division, is the federal district and division that embraces the District Court of Frio County, Texas. *See* 28 U.S.C. § 124(d)(4). Defendants file this Notice of Removal within 30-days of having been served with Plaintiff’s Original Petition. Therefore, removal is timely and proper under 28 U.S.C. §§ 1441(a) and (b) and 1446.

8. Defendants will give prompt written notice of the filing of this Notice of Removal to all adverse parties and will file a copy of the Notice of Filing Notice of Removal with the 81st Judicial District Court of Frio County, Texas.²

IV. **PRAYER FOR RELIEF**

9. Defendants respectfully request this action be removed from the District Court of Frio County, Texas, to the United States District Court for the Western District of Texas, San Antonio Division.

² *See* 28 U.S.C. § 1446(d)(3).

Dated: December 2, 2019

Respectfully submitted,

/s/ Andrew R. Gray

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

On the 2nd day of December 2019, I electronically submitted the foregoing document with the Clerk of the Court using the Electronic Case Filing system of the Court. I hereby certify that I have served all parties, as follows:

VIA CMRRR

Daniel B. Ross
Trenton N. Lacy
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/s/ Andrew R. Gray

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